

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
BUREAU OF WASTE MANAGEMENT POLICY 00-02

related to the  
Permit Exception for Remediation of Illegal Drug Manufacturing Sites

May 5, 2000

Background

K.S.A. 65-3407 prohibits the construction, alteration or operation of a solid waste processing facility or disposal area without a permit from the secretary.

When the Bureau of Remediation (BER) remediates a site of an illegal drug manufacturing site pursuant to the Kansas Chemical Control Act, K.S.A. 65-7001 et seq., a significant number of the sites involve a "burn pit." The routine part of the remediation of the "burn pit" includes removal of all hazardous substances which were used in the production of methamphetamine. However, many times, there can be anywhere from a small amount to a considerable amount of materials left in the burn pit which would be considered solid waste as defined by K.S.A. 65-3402(a).

In the majority of cases the person owning, leasing or controlling the subject property has accumulated the material which may be considered solid waste at the site of the burn pit. The material would therefore fall under the exception to the prohibition against disposing of solid waste by open dumping, under the provisions of K.S.A. 65-3409(a)(1)(B). The minor amount of waste that BER proposes to leave behind is inert material and does not create a public nuisance or adversely affect the public health or environment.

The solid waste which was not a part of the hazardous substances used to manufacture illegal drugs would be buried or left on site as part of the process to cleanup the area of the illegal methamphetamine lab. BER was not the generator of the waste, but was a governmental entity responding to a situation requiring cleanup, and does not have liability for the further disposal of any solid waste remaining in the burn pit. The owner of the property is liable for the proper disposal of the solid waste and restoration of the area if it does not fall under the exception of K.S.A. 65-3409(a)(1)(B).

Purpose

In order to prevent undue costs and waste of resources from the necessity of BER being forced to transport and dispose of the solid waste which is in place at the "burn pit," and to clarify the interpretation of KDHE that a solid waste permit is not required for BER activity under the Kansas Chemical Control Act, this policy statement is made by the Bureau of Waste Management to emphasize that BER is not liable for any pre-existing solid waste left in a methamphetamine "burn pit" after the cleanup or remediation of a methamphetamine lab site or for any activities which cause BER to come into contact with and handle solid waste during the cleanup of an illegal drug manufacturing site.



William L. Bider, Director  
Bureau of Waste Management

5-5-00

Date